

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

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Case: **3-6-16**

Serial No.: **09/653295**

Filing Date: **August 31, 2000**

Examiner: **C. Q. Nguyen** Group Art Unit: **2811**

Title: **Stacked Structure For Parallel Capacitors And Method Of
Fabrication**

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ELECTION OF CLAIMS


In response to the Official Action of October 24, 2001, Applicants hereby elects to prosecute Group I, Claims 1-6, with traverse. It is respectfully submitted that the requirement for restriction is in error and should be removed for the reasons now provided.

The examiner asserts that the inventions of Groups I and II are distinct because the device of Group I could be made with a process materially different from those of the Group II invention and then suggests that the process of Claim 7 could be modified to delete the etching step in order to form the device of Group I.

First, mere removal of the element of a claim does not imply that the claimed process would be enabled by means other than the removed step. Furthermore, removal of a claim element broadens the claim while the deleted

claim element remains within the scope of the claimed subject matter. Thus, it is erroneous to assert that the mere removal of the etching step from Claim 7 would result in a materially different process. Further, the examiner has not suggested any step to replace an etching step in order to fabricate the device of Claim 1. For these reasons, the examiner's restriction requirement is in error and must be removed. Removal is requested.

Respectfully,
Frank Yauchee Hui
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